

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

HENRY BROWN, #747413, §
§
Petitioner, §
§
v. § Case No. 6:21-cv-117-JDK-JDL
§
LAURA HANEY, et al., §
§
Respondents. §

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Petitioner Henry Brown, a Texas Department of Criminal Justice prisoner proceeding pro se, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in the United States District Court for the Southern District of Texas. The case was transferred to this Court for proper venue and was referred to United States Magistrate Judge, John D. Love, for findings of fact, conclusions of law, and recommendations for the disposition of the case. Docket Nos. 2, 4.

On March 24, 2021, Judge Love observed that Petitioner had improperly combined a challenge to his conviction with civil rights claims and ordered Petitioner to file an amended habeas petition and a civil rights complaint. Docket No. 5. Judge Love also ordered Petitioner to either pay the fees for both sets of claims or submit applications to proceed in forma pauperis (IFP). *Id.* On April 7, 2021, Judge Love gave Petitioner an extension of time until May 7, 2021, and May 21, 2021, to file his IFP applications and amended pleadings, respectively. Docket No. 9. Petitioner took no further action to prosecute this case, and on June 4, 2021, Judge Love issued a Report recommending that the petition be dismissed without prejudice for failure to comply and failure to prosecute. Docket No. 12. A copy of this Report was sent to Petitioner and received by him on June 10, 2021. Docket No. 13.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Petitioner did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 12) as the findings of this Court. Petitioner's petition for habeas corpus is hereby **DISMISSED** without prejudice for failure to prosecute and failure to comply with the Court's orders. The Court **DENIES** a certificate of appealability. All pending motions are **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this 6th day of July, 2021.



JEREMY D. KERNODE
UNITED STATES DISTRICT JUDGE